



## State of Utah

### Department of Natural Resources

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### Division of Oil, Gas & Mining

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June 7, 2005

TO: Mary Ann Wright, Associate Director of Mining

THRU: Susan M. White, Mining Program Coordinator *SMW*

FROM: Paul B. Baker, Reclamation Biologist *PBB*

SUBJECT: Collateral Bonding Proposal; Moab Salt, LLC; Cane Creek Mine;  
M/019/005; Grand County, Utah

On April 7, 2005, the Division received a written proposal from Moab Salt to furnish a collateral reclamation bond for its Cane Creek Mine. The collateral would consist of about 2700 acres of land appraised at about \$4.58 million and a reclamation fund comprised of securities in a professionally managed fund. These securities are currently valued at about \$2.2 million, so the total value of the collateral bond is estimated to be \$6.78 million. The current bond is for \$6,266,800 and is in the form of three sureties. The operator included a copy of the appraisal, an account assets statement, and a preliminary Collateral Account Control Agreement between Lyndon Property Insurance Company, Intrepid Mining, and Linsco Private Ledger (a broker).

The operator's current reclamation bonds require collateral, and Intrepid can provide the surety in the form proposed only if it is not required to maintain any of its current bonds.

The proposal is based on a provision in the Mined Land Reclamation Act, Section 40-8-14(2)(e), which says:

In determining the form of surety to be provided by the operator, the division shall approve a method acceptable to the operator consistent with the requirements of this chapter. The form of surety that the operator may provide includes, but is not limited to, the following:

- (i) collateral;
- (ii) a bond or other form of insured guarantee;
- (iii) deposited securities; or
- (iv) cash.

The only forms of surety listed in the R647 rules are cash, escrow accounts, federally-insured certificates of deposit, corporate surety bonds, an irrevocable letter of credit, or a self bond. Other forms of collateral or deposited securities are not mentioned in the rules.

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## Land

### *General Description*

The land proposed as collateral is in two parcels held in fee by Intrepid Mining, LLC. The North Parcel is near the junction of U. S. Highway 191 and S. R. 313 (the road leading to Dead Horse Point) in Grand county, and it contains 1149.36 acres. There is some frontage on these highways. Part of the area is relatively flat, but the property includes a butte that forms a box canyon. There is a four-wheel-drive road through this canyon leading to some mine adits.

The South Parcel includes some of the mine facilities near the Colorado River. There is no actual frontage on the river, but it is very close. The topography is highly varied and contains relatively flat terrain in addition to buttes and mesas typical of red rock country near Moab. Mine facilities in this parcel include the tailings pond, offices, and processing facilities, but not the evaporation ponds.

### *Appraisal*

The appraisal was done by Gordon E. Lowe of The Appraisers, Inc. Two assumptions in the appraisal that might affect the value from the Division's perspective are:

1. The appraiser assumed there would be no undue stimulus for either the buyer or the seller. If the Division was to require the proceeds from the sale of this property for reclamation of the mine, there might be an incentive to sell the property for less than market value.
2. The value of the South Parcel was evaluated as though vacant and unimproved, but the parcel is not vacant and unimproved. The mine facilities would probably be considered a liability if the Division was to sell the property. ✓

Several factors were considered in making the appraisal, and the values obtained were

#### North Parcel

1149.36 acres at \$1000/acre  
Total is \$1,150,000 (rounded)

#### South Parcel

1560.78 acres at \$2200/acre  
Total is \$3,434,000 (rounded)

$$\begin{array}{r} 2.2 \\ + 1.15 \\ \hline 3.35 \end{array}$$

$$\begin{array}{r} 6.2668 \\ - 3.3500 \\ \hline 2.9160 \end{array}$$



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While I am not qualified to make a detailed assessment of the methods that were used in the appraisal, I have a concern (besides those listed above) about the valuation procedure used for the South Parcel. The appraiser compared sales prices of 10 pieces of land. One of these, Sale 2, was the sale of the mine property, including the South Parcel, to Moab Salt in 1999 (closed in 2000). Of the 10 sales, this one had the highest price per acre (\$2000/acre). The next closest was \$1583.33 per acre.

The appraisal includes the statement, "Based on my observation of the sales data and knowledge of the market area, it is my opinion that most weight should be given to Sale 2, with a strong secondary weight given to Sales 1 and 3 through 7." In purchasing the mine property (Sale 2), I believe Moab Salt had "undue stimulus" for purchasing this property since it is the mine site, so the price paid may not represent the value of the land to someone not intending to use it for a mining operation. It may not be appropriate to give the most weight to this sale.

#### *Recommendations*

Before the Division accepts the results of this appraisal and allows the operator to use the two parcels of land as collateral bond, the appraisal should be evaluated by someone familiar with the appraisal process, and the Division needs to receive recommendations from this entity.

In addition, the Division, or perhaps someone who evaluates the appraisal for the Division, needs to consider the effect of the mine facilities on the value of the property. Theoretically, other parts of the collateral bond could be liquidated to provide funds for reclamation of the facilities on the South Parcel before the South Parcel was sold. Proceeds from the sale of the South Parcel could then be used in reclamation of other portions of the site, especially the solar ponds.

Even if the facilities were removed and the site reclaimed, potential buyers would likely have concerns whether they would incur liabilities by purchasing the South Parcel. Notably, the reclamation plan includes disposal of most demolition debris in an on-site landfill, and some of this debris contains asbestos. While this may be allowed, it probably makes the land less attractive for buyers.

#### **Securities**

On April 4, 2005, the balance in the securities account was \$2,194,237.94. Of this, \$556,473.77 was in Money Market Accounts and \$1,637,646.71 was in various securities. I do not know whether the Money Market Accounts are federally insured.

*Beth should  
evaluate  
this  
fund.*

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These sorts of funds are obviously subject to variability, and I do not know how much this fund fluctuates. Before the Division accepts this money as collateral for the reclamation bond, I recommend obtaining information on the history of the fund and that the Division have a third party analyze the fund and its history. If the Division is willing to accept this form of surety, the amount accepted as being applied toward the reclamation obligation should be adjusted based on the history.

#### **Other Aspects of the Proposal**

Intrepid proposes that the reclamation surety be re-evaluated every year. The Division would determine whether the reclamation obligation was over- or under-collateralized, and appropriate adjustments would be made. It would be a simple matter to determine the value of the securities account, but it would not be practical to do a yearly appraisal of the property.

If the Division accepts the operator's proposal in some form, I suggest that the securities account be evaluated yearly and that the land value be examined every five years when the bond is escalated. It may or may not be necessary to obtain a full appraisal. This re-examination should be at the operator's expense.

Intrepid proposes that when reclamation begins, they would periodically document what reclamation had been completed, and the Division would then allow appropriate amounts of money to be released. Depending on how often the operator needed money to be released, this could be cumbersome, but it is within regulatory requirements.

PBB:jb  
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